Attorney Docket No: MBP-005XX
Inventor(s): Kerstin Krieglstein
Application No. 09/786,435
TC Art Unit: 1645/Examiner: Vanessa L. Ford
OA Date: 09/05/07/Resp. Date: 12/05/07

REMARKS

The Applicant is appreciative of the opportunity provided the undersigned attorney to conduct a telephone interview on May 1, 2007, with the Examiner and the Examiner's supervisor, which interview resulted in the withdrawal of the then-pending Advisory Action and acceptance of the submitted claim amendments.

In the subsequent, non-final Office Action dated September 5, 2007, the Examiner has rejected currently pending claims 1 and 14-15 as anticipated by Logan et al. (WO 93/19783); currently pending claims 1, 14-15 and 18 as anticipated by Melton et al. (WO 95/10611); currently pending claims 1 and 14-17 as obvious over Logan et al. in view of Alexander et al. (Neurosurgery); and currently pending claims 1 and 14-18 as obvious over Melton et al. in view of Alexander et al. These rejections are respectfully traversed for the reasons indicated below and reconsideration is requested.

Rejections for anticipation

The pending claims are directed to a method of treating already damaged ***neurons*** (nerve cells) in a patient by antagonizing TGF-β1, TGF-β2 or TGF-β3-mediated cell death (apoptosis) of those neurons.

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FAX. (617) 451-0313

In contrast, Logan et al. describes the ***prevention of scar formation*** on blood-derived cells, astrocytes and fibroblasts ***but not on neurons*** (cf. for example page 7, lines 16 to 19, of Logan). Thus, Logan et al. teaches a ***different*** action (***preventing*** damage/scar formation rather than ***treating*** already existing damage) on a ***different*** population of cells (blood-derived cells, astrocytes and fibroblasts vs. neurons). Therefore, Logan et al. cannot anticipate the invention of the recited claims and the rejection is overcome.

Regarding the alleged lack of novelty of the claimed subject matter vis-a-vis Melton et al., it should be noted that Melton et al. discloses specifically administering ***activin or any other member of the TGF-β family that interacts with the truncated activin receptor*** (cf. for example page 5, lines 18-22) as the treating step. It cannot be assumpted that the experimental data of Melton et al. concerning activin can be generalized for the whole TGF-β family, ***since TGF-βs do not bind to the same receptors as activins***. Therefore, as Melton et al. discloses the inhibition of neural induction by ***activin but not by TGF-β1, TGF-β2, or TGF-β3***, it cannot anticipate the claims of the instant application and the rejection is overcome. Furthermore, as the subject matter of claim 1 of the present application is novel vis-a-vis each of

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Logan et al. and Melton et al., the same applies to the subject matter as defined in dependent claims 14, 15, and 18.

Rejections for Obviousness

The teachings of Logan et al. and Melton et al. have been described above. A combination of either of these references with Alexander et al. still would not teach or make obvious the deficiencies listed above in the primary references. Therefore, a combination of Logan et al. and Alexander et al., or Melton et al. and Alexander et al., would not teach all the limitations of the pending claims and the rejections for obviousness have been overcome.

In summary, the subject matter of all pending claims is not only novel, but also involves inventive step in view of Logan, Melton, and Alexander et al., taken either alone or in any combination. The Applicant submits that all claims in the application are in condition for allowance and such action is requested.

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The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

KERSTIN KRIEGLSTEIN

By: Holliday C. Heine

Holliday C. Heine, Ph.D.
Registration No.
Attorney for Applicant(s)

WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
Ten Post Office Square
Boston, MA 02109
Telephone: (617) 542-2290
Telecopier: (617) 451-0313

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WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP
TEL. (617) 542-2290
FAX. (617) 451-0313